



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

April 29, 2002

Watson Gin, Deputy Director
Hazardous Waste Management Program
Dept. of Toxic Substances Control
P. O. Box 806
Sacramento, CA 95812-0806

Dear Mr. Gin:

Enclosed is the draft FY 2000/2001 hazardous waste program evaluation under the California Department of Toxic Substances Control (DTSC) RCRA/C 3011 Cooperative Agreement (Grant). The evaluation is based on our review of DTSC's quarterly reports and self-assessments. All of the highlights and issues identified in the evaluation have been discussed with your staff.

Please review the enclosed draft report for accuracy and completeness. The report will become final on June 3, 2002. Please respond with any comments or concerns before that time. Any comments you provide will be included as an addendum to the final report, which will be included in the State's official grant file.

If you have any questions or comments, please call me at (415) 972-3378 or have your staff contact Rebecca Smith at (415) 972-3313.

Sincerely,

A handwritten signature in black ink, appearing to read "RV", written over a horizontal line.

Rich Vaille
Associate Director
Hazardous Waste
Management Division

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

April 24, 2002

CALIFORNIA RCRA/C 3011 FY00/01 END OF YEAR REPORT
(D 009363-01)
DRAFT

Prepared by:

Rebecca Smith
Project Officer
RCRA/C 3011 Grant

A. Objective

This report evaluates the Department of Toxic Substances Control (DTSC) hazardous waste management activities conducted under the FY 2000/01 USEPA/DTSC Cooperative Agreement (grant).

DTSC was authorized to implement the RCRA/C program in lieu of USEPA in August 1992. DTSC was authorized to implement a revised RCRA/C program September 26, 2001.

B. Methodology

Throughout this report "FY00/01" will indicate the period from July 1, 1999 to June 30, 2001. "FY00" will indicate the first year of the grant cycle, July 1, 1999 to June 30, 2000 and "FY01" will indicate the second year of the grant cycle, July 1, 2000 to June 30, 2001.

This report was prepared by the staff and management of the USEPA Region IX, Waste Management Division (WMD) after reviewing DTSC provided reports, documents, output reviews, RCRIS reports, USEPA files and other data, personal experience, and discussions with both DTSC staff and managers.

This report addresses the grant activities that DTSC formally committed to complete. The narrative evaluation of program elements is limited to the second year of the grant, FY01 or July 1, 2000 to June 30, 2001. The evaluation of the first year of the grant was provided to Suzanne Holmes on March 26, 2001, entitled "California RCRA/C 3011 FY00/01 Mid Grant Evaluation (D 009363-00)."

All of the highlights, issues, and recommendations found in this report were discussed with DTSC prior to the development of this document.

C. Status of the FY00/01 grant

The FY00/01 RCRA/C Cooperative Agreement (D009363-00) between USEPA and DTSC, that covered the period from July 1, 1999 to June 30, 2001, sufficiently addressed all of the program elements identified in the final workplan.

The grant budget was \$15,702,163.

Because of ongoing negotiations between USEPA and DTSC over an appropriate Indirect Cost Rate (ICR), the Financial Status Report (12/18/01) submitted by DTSC was identified as an "interim/Final" report. This grant used a USEPA approved 'interim' ICR of 80 percent (80%).

1. GPRA Distribution of Federal Funds

Pollution Prevention	4.06.01D11	3.3 % or	\$ 491,472
Corrective Action	5.01.05D11	11 % or	\$1,572,032
Permitting	5.02.04D11	37 % or	\$5,433,550
Incineration	5.02.05D11	.01 % or	\$ 2,282
Enforcement	0.01.02E11	49 % or	\$7,223,341

Non-GPRA qualified funds rolled over from the FY98/99 Grant, \$971,720.

2. The FY00/01 Grant Cycle

2/16/99	USEPA provides DTSC general grant guidance,
3/17/99	USEPA provides program specific guidance (revised 4/6/99),
4/30/99	DTSC submits initial Application for Federal Assistance,
6/4/99	DTSC re-submits Application for Federal Assistance as final,
6/30/99	USEPA approves the FY00/01 workplans,
9/28/99	USEPA approved the FY00/01 cooperative agreement (D 009363-00),
3/2/00	USEPA approves an amendment to the grant to apply additional funds (D 009363-00-1),
3/8/00	USEPA provides guidance update for the second year of the grant,
5/9/00	DTSC submits initial Application for Federal Assistance (Amendment) to cover the second year of the Grant (FY01),
6/16/00	USEPA approves the workplan amendment,

9/19/00	USEPA approves the new Application for Federal Assistance (Amendment – D 009363-00-2),
9/26/00	DTSC submits final FSR (Interim) to cover the period 07/01/99 to 06/30/00,
11/12/00	USEPA provides mid-grant brief-backs for FY00 to DTSC (final report to be consolidated in FY00/01 report),
2/01	USEPA provides final mid-grant brief-backs for the Permitting and Corrective Action portions of the grant. A comprehensive written programmatic evaluation (dated 1/26/01) is provided separately to DTSC (included here),
2/12/01	USEPA approves the final amendment to the grant (Amendment – D 009363-00-3),
6/30/01	The grant budget and performance periods end.

D. Findings

1. GRANTS MANAGEMENT

Highlights:

DTSC and USEPA Region IX continued to work jointly to resolve the Indirect Cost Rate (ICR) issue. The current rate remained eighty percent (80%).

Issue: DTSC continued to face a vacancy rate of approximately 25% during FY00/01. This appeared to contribute to a slowdown of work accomplished and excessive reprioritization of work, especially in the areas of Permitting and Corrective Action.

Recommendation: DTSC should relay any potential delay in completing a grant commitment to USEPA in a timely fashion.

2. PERMITTING AND CORRECTIVE ACTION

Highlights:

a.

<i>Environmental Indicator</i>	<i>FY00</i>	<i>FY01</i>	<i>Total</i>	<i>Percent of Total Universe</i>	<i>2005 GPRA Goal</i>
<i>Human Health</i>	5	0	25	17% (of 146)	95%
<i>Groundwater</i>	3	0	17	12% (of 146)	79%
<i>Permit *</i>	5	3	94	84% (of 112)	80%
<i>Post Closure*</i>	10	13	46	58% (of 80)	80%

* DTSC has already met the permit GPRA goal for 2002 (71% of the facilities in the combined permit and post closure universe should have approved controls in place): 118 facilities or 71 percent of the 166 facilities in California's universe have approved controls in place.

- b. DTSC's GPRA achievements don't completely reflect the significant work and accomplishments DTSC made during the two year grant period. DTSC completed 158 permitting and corrective action milestones, 74 percent more than the 117 milestones they planned to complete. Two draft permits were issued at sensitive sites (Sierra Army Depot and BKK Landfill) where 2800 public comments were subsequently received.
- c. DTSC has developed a guidance document on emergency permits. They issued four such permits in FY00/01: Sierra Army Depot (treatment of smoke bombs), Marine Corps Air Station-Miramar (detonation of about 8,000 rounds of M190 impulse activated devices and one fused 155 mm artillery projectile), and Niland Fire District (management of low level explosives).
- d. DTSC and USEPA worked on several joint projects to achieve corrective action and permitting milestones: the Environmental Indicator Evaluations, Analogous Reviews, and Completed Output Reviews.

Issues:

- a. Corrective action environmental indicators are still needed at 114 sites in California. Although the Regional Water Quality Control Board or the Site Mitigation Program is actually conducting cleanup work or overseeing that work at some of these sites, the Hazardous Waste Management Program in DTSC is responsible for all the sites because they are the authorized state hazardous waste management program. Thus, DTSC must track progress at all sites even those for which they do not have direct control.

Recommendation: DTSC should establish working relationships and partnerships with both DTSC SMP and RWQCB that will promote cleanup work that is protective of human health and groundwater at all of the sites in California.

- b. In the past year, DTSC has not added any corrective action sites to the list of those that have attained protection of human health or groundwater, the two corrective action goals. One reason for this is that no progress has been made in implementing stabilization actions or cleanup work at sites.

Recommendation: DTSC should use stabilization actions (e.g. implement interim remedial measures) that will be protective of human health and groundwater at those sites currently not meeting the corrective action goals.

- c. A second reason that DTSC has not added any corrective action sites to the list of those that have attained protection of human health or groundwater is that other tasks were substituted for GPRA goal-related work. In FY01, DTSC completed only 5 of the 36 planned permit and corrective action outputs. Their substitution rate was 84 percent, which is more than their intended goal of not substituting more than 50 percent.

Recommendation: DTSC should conduct planned GPRA-related work at facilities in the GPRA baseline universe instead of undertaking other milestone work at other facilities.

- d. A third reason is that agreement is still needed on how to resolve the indoor air pathway issues.

Recommendation: DTSC should continue its team approach to resolve issues of indoor air quality so that determinations can be made more quickly and consistently. USEPA would like to work with this team so that we can exchange information and ideas about how to address the indoor air exposure pathway at corrective action sites.

- e. During FY00 and FY01 no final post closure permit determinations were issued.

Recommendation: DTSC should effectively implement its Post Closure Strategy and show significant progress in making final post closure permit determinations for those facilities listed in the GPRA Permitting Baseline post closure universe.

- f. DTSC also has 12 facilities that are operating under interim status.

Recommendation: DTSC should make final permit determinations at the 12 interim status facilities.

- g. In FY00 only 29% (of 87 completed outputs) were recorded in the database submitted to Region 9. In FY01 the percentage dropped to 27% (of 71 completed outputs).

Recommendation: Completed outputs should be recorded in DTSC's formal tracking systems as they occur throughout the year. Then the data can be transmitted regularly to EPA's data system. If this regular data entry occurs we believe that data "cleanups" will become much less extensive and be needed less frequently than they have been over the past several years.

3. STATEWIDE COMPLIANCE

- a. For FY00/01 the DTSC Statewide Compliance Division (SCD) satisfactorily completed all inspection commitments and workplan obligations.

<i>FY00</i>	<i>Committed</i>	<i>Actual</i>	<i>Exceeded</i>
<i>Total</i>	136	205	69
<i>TSD</i>	100	114	14
<i>Generators</i>	57	68	11
<i>Other</i>		93	
<i>FY01</i>	181	241	60

In FY01 specific inspection accomplishments for LQGs, TSDs, transporters, and other entities varied from original commitments. For example, DTSC completed 4 more TSD inspections than promised and 11 fewer generator inspections. SCD was granted authorization to shift specific inspection resources provided that all statutorily required TSD inspections were completed; SCD exceeded USEPA's expectation concerning inspections.

- b. SCD was granted an extension to September 2001 to complete waste derived fertilizer project inspections, due to some confusion about the list of facilities provided to SCD by USEPA. SCD completed all of the inspections prior to September 2001.
- c. SCD continued to make tremendous progress toward eliminating its enforcement backlog: 67 of 73 RCRA and State-only cases pending on or before January 1, 1999 have been resolved.

Recommendations: None

4. STATE REGULATORY PROGRAMS

Highlights:

- a. The State Regulatory Programs Division (SRPD) satisfactorily completed or addressed its grant commitments for FY00/01. The State Regulatory Programs Division (SRPD) is the lead division at DTSC for coordinating, evaluating and overseeing the CUPA hazardous waste generator program. Prior to FY01, SRPD was tasked with the overall coordination

of the entire CUPA program development, evaluation and oversight. Although DTSC is still responsible to USEPA for CUPA performance, Cal/EPA was assigned a coordinating role in FY01. The transition resulted in some confusion and staffing adjustments at both DTSC and Cal/EPA.

- b. In FY01 data reporting continues to be of concern to EPA. Although the commitment in the grant is to provide EPA copies of consolidated summary data 60 days after receipt from CalEPA, the expectation is that the data will be submitted to USEPA 90 days after the end of the state fiscal year.

ARIS does not contain data relating to the oversight or independent inspections of CUPAs conducted by SRPD. Facility specific data for these inspections should be entered into ARIS.

- c. Oversight Inspections. SRPD committed to 23 oversight inspection. 17 oversight inspections were completed. The five missed commitments were caused by changes in the evaluation process directed by Cal/EPA. SRPD participated in the development of the new process as a substitute for the 5 commitments.
- d. Independent Inspections. SRPD committed to 40 independent inspections. Only 35 independent inspections were completed. Resources were shifted from inspection to enforcement activities.
- e. Guidance, Policies and Procedures, and Special Projects. Although not mentioned in SRPD's Self Evaluation, SRPD deserves considerable credit for advancing the CUPA administrative enforcement program. SRPD spent considerable time developing guidance documents and training CUPA program managers and staff on the procedures for issuing administrative enforcement actions. USEPA looks forward to improved data relating to administrative enforcement orders issued by CUPAs.
- f. EPA Referrals. USEPA routinely submits USEPA issued inspection reports to SRPD for appropriate enforcement and follow up. Most referrals are inspections where significant non-RCRA violations have been identified. SRPD has been using these referrals to assist CUPAs to take enforcement action.
- g. Unified Program Hazardous Waste Strategic Plan. SRPD completed the development of the strategic plan. Additional work on the strategic plan will be completed in FY02. As part of the strategic plan SRPD committed to the development of an annual "State of the CUPA Program" report. For this year the "State of the CUPA Program" report is a combination of the grant self evaluation and the Strategic Plan. In subsequent years, the State of the CUPA Program report should be a stand alone document that may suffice for SRPDs annual self evaluation.

Recommendations: None

5. MEXICO BORDER

Highlights:

- a. DTSC performed 373 truck stops. Of those stopped, 173 had hazardous wastes, 112 contained "American Products Returned," 72 contained non-hazardous wastes, 14 contained products and 2 contained excluded recyclable materials. One transporter was issued a notice of violation.
- b. SCD staff, along with a U.S. Customs inspector, conducted an audit of San Diego County's border truck stop at the Otay Mesa Port of Entry.

Recommendations: None

3. INFORMATION MANAGEMENT

- a. The 1999 BRS cycle has been very successful. This is primarily due to DTSC's extra efforts and willingness to conduct data quality reviews to speed up the cleanup process. As a result, EPA Region 9 was able to successfully load the California data into RCRAInfo one week ahead of the deadline.

The 2001 cycle is also off to a great start with DTSC's willingness to manage their own data. In addition, DTSC began preliminary work for the 2001 cycle by sending letters to potential filers and scheduling community outreach training to industries.

- b. DTSC took the initiative and began development of their own data system to track RCRA-C and Hazardous Waste Manifest data. The first phase, currently under development, is the manifest module. It will be followed by the permits and compliance modules. We will work closely with DTSC during the development process to ensure that our systems can effectively "talk" to each other. It is anticipated the system will be online sometime in November 2002.
- c. DTSC worked closely with EPA Region 9 during FY01 to clean up data and to monitor achievements at facilities on the GPRA baseline. DTSC staff met several times with EPA Region 9 staff to identify data discrepancies and to resolve data issues. In addition, DTSC conducted some direct data input into ARIS for facilities on the GPRA Operating Permit (OPU) and Post Closure (PCU) baselines. DTSC's direct data input considerably increased the speed and accuracy of data cleanup for facilities on the GPRA baseline.

Issues:

USEPA needs an update on the progress and status of the development of the new Hazardous Waste Tracking System.

Recommendations: None.

7. TRAINING COORDINATOR

Highlights: Overall, DTSC has developed a respectable internal and external training coordination program that included a comprehensive DTSC Training Strategy for FY00/01. No commitments were missed.

Recommendations: None

8. PUBLIC PARTICIPATION

Highlights:

- a. Public participation continued to be adequate and focussed heavily upon permitting issues.
- b. Key sites included:
 - Sierra Army Depot
 - Lawrence Berkeley Laboratory
 - Romic Environmental
 - Demenno Kardoan
 - Santa Susana Field Laboratory

Recommendations: None

9. POLLUTION PREVENTION

Highlights:

- a. The DTSC Office of Pollution Prevention and Technology Development continued to address pollution prevention issues and to meet its grant commitments.
- b. In accordance with Senate Bill 14, more than 105 source reduction documents were reviewed for completeness. A subset was reviewed for technical correctness. Additionally, 105 seminars, conferences, and training sessions were conducted.
- c. The SF Bay Area Green Business Program had a vacancy in the first part of the grant cycle, but did show activities involving several Bay Area counties in the latter part of the grant cycle.

Recommendations: None

10. AUTHORIZATION

Highlights:

During FY01 DTSC provided assistance to USEPA in responding to comments about the proposed authorization of 17 packages dating from 1991 through 2000. A total of 64 separate changes to Federal regulations were adopted by DTSC and proposed to be authorized by USEPA. Authorization was granted by USEPA on September 26, 2001. Eighty three percent of all Federal RCRA rules are authorized in California, a significant improvement in California's authorization status.

Issue: DTSC experienced a slowdown on the used oil and financial responsibility packages due to re-assigning staff to other work. While the financial responsibility package has recently been submitted in draft, and work is continuing on the scrap metal rule in the LDR 3 & 4 package, no one has been assigned to revise the used oil statute and regulations.

Recommendation: DTSC should consider assigning more staff resources to work on all packages in FY02/03, or focus more resources on completing individual packages sequentially.